

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION
ASSESSMENT APPEALS COMMISSION

Appeal of:	NORTHGATE LTD)	
	Map 29A, Parcel 15)	Marshall County
	Commercial Property)	
	Tax Year 1999-2005)	

FINAL DECISION AND ORDER

Statement of the case

The taxpayer has appealed the initial decision and order of the administrative judge, who determined the subject property should be assessed as follows:

Year	Land	Improvement	Total value	Assessment
1999-2001	\$82,100	\$1,019,500	\$1,101,600	\$440,640
2002-2004	\$82,100	\$1,065,700	\$1,147,800	\$459,120

The appeal was heard in Nashville on December 13, 2005 before Commission members Stokes (presiding), Brooks, Ishie, Wade,¹ and White. The taxpayer was represented by Mr. J.O. Catignani, an agent registered with the State Board of Equalization, and the assessor was assisted by the state Division of Property Assessments, appearing through counsel Robert T. Lee and appraiser George C. Hoch, TCA.

Findings of fact and conclusions of law

The subject property is a 42 unit garden apartment complex constructed in 1973 under the FHA Section 236 program, which provides a federal subsidy equivalent to a loan interest rate of 1% in return for rent reductions by the owner to qualified low to moderate income tenants. Hearings on the appeals were deferred pending resolution of other subsidized housing appeals before the State Board of Equalization. With some of the issues in this case now resolved in those appeals, the parties stipulated the only issues for resolution by the Commission were adjustments in the income capitalization approach for vacancy and collection loss and operating expenses.

Mr. Catignani contended a 10% vacancy-collection loss was appropriate because it represented a reasonable average of the property's experience from 1999-2005. He also stated the 10% rate compares favorably with other Section 236 properties in the three state area that includes Alabama, Kentucky and Tennessee. Mr. Catignani urged adoption of a 72.49% operating expense ratio based on actual experience and also, in his view, corroborated by Institute of Real Estate Management (IREM) data. With these adjustments the taxpayer's contended value was \$656,700.

¹ Mr. Wade and Mr. Ishie sat as alternates in the absence of regular members who were unavailable, pursuant to Tenn. Code Ann. §4-5-302.

Mr. Hoch characterized the vacancy-collection experience of Northgate as atypical, the product of poor maintenance that led prospective tenants elsewhere. Hoch documented maintenance problems cited by the federal regulatory agency (HUD), and he testified regarding the assessor's experience in setting vacancy-collection rates for comparable properties in the county as part of the last reappraisal, averaging about 3%. Both parties offered competent testimony but the Commission finds the assessor's proof more compelling as to conditions in Marshall County.

With respect to expenses, the proof again indicates that higher expenses experienced by Northgate were the result of management problems more than being representative of the market. HUD, according to the proof, has cited the owners for per unit maintenance ratios that cannot be passed through to tenants, and the Commission agrees with the assessor's contention that expenses considered typical for the market would likely have won HUD pass through. Once more the parties have capably urged their positions but we find the assessor's proof preponderates.

ORDER

It is therefore ORDERED, that the initial decision and order of the administrative judge is affirmed and the values and assessments determined as follows for the years at issue:

Year	Land	Improvement	Total value	Assessment
1999-2001	\$82,100	\$1,019,500	\$1,101,600	\$440,640
2002-2004	\$82,100	\$1,065,700	\$1,147,800	\$459,120

This order is subject to:

1. Reconsideration by the Commission, in the Commission's discretion.

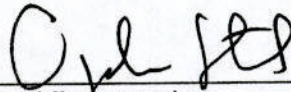
Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.

2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.

3. Review by the Chancery Court of Davidson County or other venue as provided by law. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

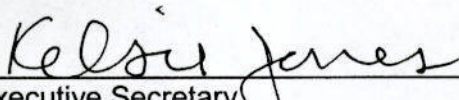
Requests for stay of effectiveness will not be accepted.

DATED: May 2, 2006



Presiding member

ATTEST:



Executive Secretary

cc: Mr. J. O. Catignani
Mr. Robert Lee, Esq.
Ms. Linda Haislip, Assessor